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Attorney Docket No.: 1999-0148A CON

**REMARKS**

Claims 1-6 were rejected under 35 U.S.C. 102(e) as being anticipated by Aukia et al (US 6,594,268), hereinafter referred to as Aukia.

The rejection is respectfully traversed.

The specification discloses a method and apparatus for provisioning and monitoring quality of service in a network that carries packet traffic. The network supports different classes of service, such as Virtual Leased Line, Assured and Basic. Moreover, on any given link, the different classes of service are entitled to respective amounts of the traffic carried by that link.

In accordance with the present invention as defined in claim 1, an aspect of the aforesaid method is applicants' realization that it is desirable to determine whether a particular parameter associated with links in the network meets a predetermined criterion. The parameter is one that is determined for each of those links individually and is a function of two things: a) the amount of packet traffic over each link that is entitled to one of two classes of service and b) the amount of packet traffic over said each link that is entitled to the other of the classes of service.

That parameter, more particularly, may be the ratio between the amounts a) and b) just mentioned, as is called for in claim 4. As also called for in claim 4, the aforementioned "predetermined criterion" recited in 1 is illustratively that the ratio exceeds a predetermined threshold.

In rejecting the claims, the Office action points to various aspects of Aukia that correspond to various words or phrases in applicants' claims. It is respectfully submitted, however, that in finding that the claims read on Aukia, the Office action does not appropriately take all of the claim limitations into account.

Certainly certain disclosed aspects of Aukia meet some of the language of applicants' claims. For example, Aukia does disclose a network that carries packet traffic under different classes of service. And certainly each of the links of Aukia has some associated predetermined parameters, such as QoS provisioning commitments, link capacity and available bandwidth, as the Office action points out. Certain fractions or

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ratios of certain parameters may be taken into account during the operation of the Aukia system. However, important limitations in the claims are *not* shown or suggested in Aukia.

For example, the Office action does not explain, nor do applicants see, where in Aukia it is determined that the parameters pointed in the Office action, i.e., QoS provisioning commitments, link capacity and available bandwidth meet a “predetermined criterion (claim 1, line 4).” In particular, it is not clear what predetermined criterion the QoS provisioning commitments, link capacity or available bandwidth are compared against to determine if the criterion is met.

Moreover, applicants do not find in Aukia any step of carrying out the claim’s recited “determining” functionality for the various links “individually,” as required by claim 1, lines 2-3.

Moreover, let it be assumed for purposes of argument that Aukia meets the limitations of claim 1, lines 2-4. That is, let it be assumed for purposes of argument that Aukia could be said to disclose some kind of determining individually for each of a plurality of links in the network as to whether a predetermined parameter associated with each link meets a predetermined criterion. Claim 1 nonetheless distinguishes the invention from Aukia in that nothing in Aukia that applicants can find teaches the particular nature of that parameter as required by claim 1.

Specifically, as noted above, claim 1 recites that the parameter in question is a function of a) the amount of packet traffic over each link that is entitled to one of two classes of service and b) the amount of packet traffic over said each link that is entitled to the other class of service. In order to find that this claim language is anticipated, one would have to find somewhere in Aukia the idea that a certain amount of packet traffic over a link is entitled to one class of service and that a certain amount of packet traffic over that link is entitled to some other class of service.

Applicants find nothing in Aukia that describes that particular amounts of packet traffic on a link are entitled to different classes of service, as claim 1 recites. Moreover, then, applicants certainly find nothing in Aukia that describes a parameter that is a function of—that is, is determined at least in part by—such amounts, as claim 1 further requires.

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And certainly, then, applicants find nothing in Aukia that describes that such a parameter is the ratio of the aforesaid amounts, as claim 4 recites. Since traffic amounts entitled to various classes of service, as defined in the claims, are not disclosed in Aukia, the ratio of such amounts are certainly not disclosed.

It is true that Aukia discloses weights that are fractions (which are ratios) of the bandwidth for a particular transmit buffer or queue, e.g., at col. 10, lines 55-57. However, such fractions control how much bandwidth of a link a particular packet flow may receive relative to another packet flow. As such, those fractions have nothing to do with how much of the traffic over a link is entitled to a particular class of service, as claim 1 recites. That is, no restriction is made in Aukia as to how much of the traffic of any particular type is allowed to go onto a given link. Indeed, as already noted, applicants find nothing in Aukia that defines class-by-class traffic entitlements over a given link.

Claims 2, 3, 5 and 6 all depend from claim 1 and thus distinguish the invention from Aukia for at least the reasons set forth hereinabove.

In view of the foregoing, it is submitted that all of the claims in the application—claims 1- 6—distinguish the invention from Aukia. Reconsideration and allowance of those claims is therefore earnestly solicited.

Respectfully submitted,

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